



**APPROVED**

**BOARD OF ADJUSTMENT  
CITY OF SCOTTSDALE  
3939 NORTH DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA  
MAY 3, 2006**

**REGULAR MEETING MINUTES**

**PRESENT:** Carol Perica, Chairman  
Jennifer Goralski, Vice-Chairman  
Terry Kuhstoss, Board Member  
Howard Myers, Board Member  
James Vail, Board Member

**ABSENT:** Ernest Jones, Board Member  
Neal Waldman, Board Member

**STAFF PRESENT:** Brad Carr  
Tim Curtis  
Lusia Galav  
Jesus Murillo  
Jeff Ruenger  
Sherry Scott

**CALL TO ORDER**

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chairman Perica at 6:02 p.m.

**ROLL CALL**

A formal roll call confirmed the members present as stated above.

### **APPROVAL OF MINUTES**

1. April 5, 2006 Board of Adjustment Study Session Minutes

Board Member Vail noted that on the last page of the study session minutes Board Member Kuhstoss' name was misspelled.

**BOARD MEMBER VAIL MOVED TO APPROVE THE APRIL 5, 2006 MINUTES OF THE STUDY SESSION WITH THE NOTED SPELLING CORRECTION. SECONDED BY BOARD MEMBER KUHSTOSS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0).**

2. April 5, 2006 Board of Adjustment Minutes

**BOARD MEMBER KUHSTOSS MOVED TO APPROVE THE APRIL 5, 2006 MINUTES OF THE REGULAR SESSION. SECONDED BY BOARD MEMBER VAIL, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0).**

### **REGULAR AGENDA**

3. 2-BA-2006                      Shoen Residence

Request for a variance from Article VII. Section 7.200.A.4 regarding accessory building setback on rear lot line.

**BOARD MEMBER KUHSTOSS MOVED TO DENY ITEM 2-BA-2006 A CONTINUANCE, NOTING A TARDY REQUEST. SECONDED BY VICE-CHAIR GORALSKI, THE MOTION FAILED BY A VOTE OF FOUR (4) TO ONE (1). CHAIR PERICA, VICE-CHAIR GORALSKI, BOARD MEMBER VAIL, AND BOARD MEMBER MYERS DISSENTED.**

**VICE-CHAIR GORALSKI MOVED TO CONTINUE ITEM 2-BA-2006 TO THE JUNE MEETING OF THE BOARD OF ADJUSTMENTS. SECONDED BY BOARD MEMBER VAIL, THE MOTION CARRIED BY A VOTE OF FOUR (4) TO ONE (1). BOARD MEMBER KUHSTOSS DISSENTED.**

4. 3-BA-2006                      Konfara Company @ Scottsdale Industrial Airpark

Request for a variance from Article V. Section 5.1804.F.1 regarding front yard setback and Article IX. Section 9.106.E.6 regarding no covered parking.

Mr. Ruenger addressed the Board. Highlights of his presentation included an aerial view of the site, the site plan, and a review of the requirements of the zoning ordinance for the I-1 district. Mr. Ruenger reviewed the applicant's justification for meeting the four criteria and provided alternate suggestions for locating the requested covered parking area. Staff found that parking canopies would be an undesirable design element when located between the building and the street.

David Grim, director of maintenance for Konfara Company clarified that they were the flight department for Discount Tire Company and introduced Bob Berg from the Architectural Resource Team.

Bob Berg addressed the Board. He presented an aerial photograph of the site and explained Konfara's reasons for requesting the variance. He explained that the situation was created because of the way the property was originally developed. Presenting a photograph of the parking lot and landscaping, he explained that cars are subjected to sun in the summer. Taking note of staffs alternative suggestions, he opined that flipping the parking lot would reduce the aesthetic quality of the site and increase cost and time spent. He noted that extensive landscaping lined the street providing some shade and that adding foliage within the parking lot would put them in violation of the parking requirements.

In response to a question by Board Member Myers regarding Konfara's objection to moving the shade structure against the building, Mr. Berg noted high cost and loss of the parking and building function during the time of construction. Mr. Berg opined that although placing the parking canopy against the building would put it outside of building setbacks, the structure would be in greater view making it less desirable aesthetically to the neighborhood. Mr. Curtis confirmed that temporary parking on the street would be permitted in that area.

Mr. Grimm confirmed that Konfara has 22 employees, noting that the hangar is used for parking crew and passenger vehicles during flights because of security problems in the area.

Mr. Grimm mentioned that moving the parking structures up towards the building would create difficulty for delivery trucks and also would interfere with the retention area behind the retaining wall.

In response to an inquiry by Vice-Chair Goralski, Mr. Grimm clarified that there would be no additional parking spaces added. There would be an increase in covered parking spaces from four to twenty.

Board Member Vail stated that despite his concerns and recognition of a need for covered parking he was concerned about setting a precedent. He was concerned that the damage covered parking would cause to the streetscape would outweigh the benefits to the owner. He stated that he would not support the variance.

Vice-Chair Goralski concurred with Board Member Vail. She opined that the criteria had not been met. She noted they had the minimum number of required parking spaces, they were not making other changes, and a problem with cost of modifying the parking plan could be addressed in a number of ways. She stated that she would not support the variance.

Chair Perica noted that she did not believe any of the four criteria had been met and she would not support the variance.

Board Member Kuhstoss stated that she did not believe the four criteria had been met, particularly that there were no special circumstances.

Board Member Myers recognized the need for covered parking, noting that a change in ordinance would be required in this case. He opined that the applicant had alternatives. He mentioned that this was a case where he would like to see some kind of ordinance change in order to provide better opportunity to cover parking spaces. He did not believe that all four of the criteria had been met and would not support the variance.

**BOARD MEMBER KUHSTOSS MOVED TO DENY 3-BA-2006, REQUEST FOR A VARIANCE. SECONDED BY BOARD MEMBER VAIL, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0).**

5. 4-BA-2006 Barciz Residence

Request for a variance from Article V. Section 5.504.E.2.a regarding side yard setbacks.

Brad Carr addressed the Board. Highlights of his presentation included an aerial view of the site, a zoning map, a site plan, and photographs of the home. Zoning for the property was R1-7 and the ordinance required a side yard on each side of the building of not less than five feet with an aggregate width of 14 feet. The variance request was for a two-and-a-half foot setback and an aggregate of seven-and-a-half feet in order to allow for a two car garage at the front of the house.

Andrew Barciz, applicant, addressed the Board. He mentioned that his house lot is only one of twelve with his house style that does not meet the zoning standards. Because of surrounding alleys and a cut out in his yard to accommodate the garbage truck, he is restricted on expanding his home. Mr. Barciz explained that a two car garage would follow the roofline and keep the house uniform as opposed to an unusable L shaped space which would be created with a single car garage. He opined that the addition of a two-car garage would increase the value of homes in his neighborhood.

Board Member Myers stated that redevelopment of older subdivisions should be encouraged; new standards should not be applied to subdivisions that were built before the standards existed. He opined that all of the criteria had been met and he stated that he would support the request.

Board Member Kuhstoss concurred with Board Member Myers' comments. South Scottsdale should have its own criteria. She stated that she would support the variance.

Chair Perica opined that the addition would be a positive move for the neighborhood and noted that she would support the variance.

Vice-Chair Goralski noted her support for the variance.

Board Member Vail commended the homeowner and the neighborhood for being well kept. He stated that he would support the request for a variance.

**BOARD MEMBER KUHSTOSS MOVED TO APPROVE 4-BA-2006.  
SECONDED BY BOARD MEMBER MYERS, THE MOTION CARRIED  
UNANIMOUSLY WITH A VOTE OF FIVE (5) TO ZERO (0).**

6. 5-BA-2006 Summit Ranch Lot 2 Fence Variance

Request for a variance from Article V. Section 5. 104.G.1 regarding fence setback.

Mr. Murillo addressed the Board. Highlights of his presentation included an aerial of the site, a zoning map depicting the R1-43 area, a site plan, and photographs of the property. He explained that a 220 KV power line and a wash ran through the property and a pile of manure was visible on the neighboring property. Special circumstances existed because the property was a key lot.

Mr. Murillo explained that a key lot situation was created because the side yard of the parcel to the north abuts the rear yard of the parcel in question.

In response to an inquiry by Board Member Myers concerning a transportation plan for the area, Mr. Murillo explained that neighbors have not made any right-of-way dedications and the key lot issue is a speculation of how property may be developed under the power line. If the property were not a key lot, a wall would be allowed without a variance.

In response to a question by Board Member Vail, Mr. Murillo explained that according to the aerial photographs, the manure pile had been on the neighboring property since at least 2003 and is permitted within the zoning of the area.

If the property to the opposite side were developed, two key lot situations would be created because the rear yards would abut the third property's side yard.

Cory Sanders, Applicant, addressed the Board. He opined that the natural wash running through his property was his strongest argument. He noted that he would not have built on the property if the manure pile and a Dumpster on the neighboring horse property had been there. Mr. Sanders stressed that he was not requesting anything that he would not be allowed if he were not in a key lot situation.

In response to an inquiry by Board Member Goralski, Mr. Sanders noted that he closed on the property in March of 2003. He was originally building the house for his own use, but has since decided to sell the property.

In response to a question by Vice-Chair Goralski, Mr. Curtis confirmed that NAOS requirements require that a portion of land be dedicated. Typically the homeowner would be encouraged to designate the wash area.

Board Member Vail inquired whether the land was large enough for equestrian use. Mr. Sanders stated that it would be large enough, but that he always intended to enclose the property. Mr. Curtis stated that size requirements for equestrian property depended on what type of facility was being planned. Board Member Vail opined that because the property is on the market it may be a detriment rather than an advantage to enclose the back yard.

In response to a comment by Board Member Vail concerning time restrictions for construction to be completed if the variance were granted, Mr. Sanders noted that he had a buyer for the property and the construction would be completed before the close of escrow.

Mr. Murillo reported that Mr. Sanders' plans were approved in July of 2005. He corrected his earlier statement, noting that the permit for the horse facility was issued in 1987.

Vice-Chair Goralski stated that she was sensitive to the key lot situation but that the applicant was responsible for some of the circumstances by choosing the lot near the horse property. The wash was an issue but was dedicated as part of the required NAOS. She opined that the four criteria had not been met; she would not be supporting the variance.

Board Member Vail expressed concern about the difficulty caused by key lot provisions. He stated that he would like to listen to comments by his fellow Board Members before making a decision.

Board Member Myers commented that an amendment to the ESL ordinance allowing amended standards for individual lots which is being considered might have helped the case. He opined that declaring a key lot was subjective, because there was no transportation plan for the area. He stated that he would support the case because he recognized the need of the person purchasing the property for a usable backyard.

Board Member Kuhstoss opined that the problems were self created and that she would be voting against the variance.

Chair Perica agreed with Board Member Myers' comments. She commented that although the applicant was aware of the horse property when she purchased the property, she would be supporting the variance.

Board Member Vail noted that he would not support the request. He stated that he hoped that the buyer will present the appeal, in order for the Board to hear what he has planned for the property.

**BOARD MEMBER KUHSTOSS MOVED TO DENY THE VARIANCE REQUEST FOR CASE 5-BA-2006. SECONDED BY VICE-CHAIR GORALSKI, THE MOTION CARRIED WITH A VOTE OF THREE (3) TO TWO (2). VICE-CHAIR GORALSKI, BOARD MEMBER VAIL, AND BOARD MEMBER KUHSTOSS**

**SUPPORTED THE MOTION. CHAIR PERICA AND BOARD MEMBER MYERS  
DISSENTED.**

Board Member Vail commended Board Member Kuhstoss for her six years of service on the Board of Adjustments. Board Member Myers suggested that Board Member Kuhstoss rejoin the Board at some point in the future because she was a valuable member.

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 7:18 p.m.

Respectfully submitted,  
A/V Tronics, Inc.